

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
AARON RUBENSTEIN,

Plaintiff,

-against-

RICHARD N. AZAR, II, et al.,

Defendants.
-----X

MEMORANDUM AND ORDER

18-MC-1647 (MKB)

ROANNE L. MANN, CHIEF UNITED STATES MAGISTRATE JUDGE:

Currently pending before this Court, on a referral from District Judge Margo K. Brodie, is a motion filed in the Eastern District of New York (the “EDNY”) (1) to enforce compliance with a subpoena served on non-party Thomas Lisa (the “Lisa Subpoena”), in Roslyn Heights, New York, in connection with a lawsuit pending in the Western District of Texas; and (2) to extend the discovery and briefing schedules ordered by the District Court in the district of prosecution on February 12, 2018. See Motion to Compel Non-Party Discovery and Extend Discovery & Dispositive Motion Deadlines (June 15, 2018), Electronic Case Filing Docket Entry (“DE”) #1. For the reasons that follow, plaintiff’s motion is denied without prejudice.

Regarding plaintiff’s motion to modify the Scheduling Order entered in the Western District of Texas by the District Court Judge assigned to the underlying case, plaintiff cites no legal authority pursuant to which a judge in the EDNY could or should nullify a schedule set in another district by the judge presiding over the lawsuit in question, nor is this Court aware of any such authority. Therefore, plaintiff’s motion to modify the Scheduling Order should be refiled in the Western District of Texas and addressed to the judge who issued that order.

To be sure, as the court where compliance with the Lisa Subpoena is required, the EDNY does have the authority to quash, modify or enforce that subpoena. See, e.g., Fed. R. Civ. P. 45(d)(3). Nevertheless, the subpoena that plaintiff seeks to enforce is returnable on June 27, 2018, whereas discovery closed on June 15, 2018. Accordingly, plaintiff's motion to enforce compliance is denied, without prejudice, as the Lisa Subpoena is untimely. See, e.g., Jones v. Hirschfeld, No. 01 Civ. 7585(PKL), 2003 WL 21415323, at *4 n.13 (S.D.N.Y. June 19, 2003) (“[T]he discovery deadline date is the date on which discovery should be complete; it is not the last date on which a party can serve discovery requests.”); see, e.g., Gavenda v. Orleans County, 182 F.R.D. 17, 20 (W.D.N.Y. 1997).

In the event plaintiff secures an extension of the discovery schedule from the Western District of Texas, any renewed motion to enforce the Lisa Subpoena, or any subsequent subpoena served on Thomas Lisa, should be filed in the EDNY's Central Islip courthouse, as the subpoena calls for compliance in Mineloa, New York, which is in Nassau County. See Guidelines for the Division of Business Among District Judges Rule 50.1(d)(2).

SO ORDERED.

**Dated: Brooklyn, New York
June 25, 2018**

/s/
ROANNE L. MANN
CHIEF UNITED STATES MAGISTRATE JUDGE